



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

October 21, 1953

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Letter Opinion No. MS-103

Re: Property acquired by the Texas
Hall of State, San Jacinto Museum,
Battleship "Texas", the
French Embassy, the Alamo,
Museum in the old Land Office
Building.

Dear Mr. Calvert:

In connection with our Opinion V-1443 (1952), dealing with Texas Hall of State, San Jacinto Museum, Battleship "Texas," the French Embassy, the Alamo, and the Museum in the Old Land Office Building, you have asked the following questions:

1. Are properties acquired by any or all of these agencies through public subscription State properties within the meaning of Article 6252-6, Vernon's Civil Statutes (House Bill No. 753, Acts 52nd Leg., 1951, ch. 356)? If so, are such properties subject to being listed in the inventory records of the Comptroller of Public Accounts?
2. Are properties acquired by any or all of the above named agencies from the proceeds of souvenir sales, elevator ticket sales, admission charges, etc., State properties within the meaning of Article 6252-6? If so, are such properties subject to being listed in the inventory records of the Comptroller of Public Accounts?

After a thorough review of the history and circumstances surrounding the operation of the above mentioned State shrines and museums, we answer your questions as follows:

It has long been recognized by the citizens of this State that The Daughters of the Republic of Texas, the Texas Division of the United Daughters of the Confederacy, and The San Jacinto Museum of History Association have, through legislative enactment, assumed a responsibility belonging to the State to accumulate and preserve documents and objects relating to the history of our State. As was so ably pointed out by Chief Justice

Hon. Robert S. Calvert, page 2, (MS-103)

Brown in the case of Conley v. Daughters of the Republic, 106 Tex. 80, 156 S.W. 197 (1913);

" . . . However, we will say that this is not such a soulless corporation as needs to have a watch upon its actions. The heart, the soul, and spirit of patriotism are the capital employed by those women which would not detract from the authority and power of the state. On the contrary, those ladies, with no hope of gain to themselves, undertook to substitute for the state's fund, which would have been created by taxation, the voluntary offerings of the people--a tribute of patriotism, sanctified by love for the state, and reverence for the memory of her heroic dead. . . . "

The Legislature of this State has never seen fit to change by statute the mode of operation or the manner of handling the funds acquired by these organizations in the course of the exercise of their duty and responsibility for the care, custody, and control of State shrines and museums. Until the Legislature finds it necessary to effect a change, we think the present mode of handling and utilizing funds and properties acquired by these organizations should be maintained.

In the absence of contractual provisions to the contrary, the presumption should continue to prevail that funds and properties acquired by corporations in charge of State shrines and museums belong to them. This presumption would be overcome, of course, in cases where there is a gift or donation to the State of Texas. This same rule should also be applied to the City of Dallas, Texas, in relation to its operation of the Texas Hall of State.

Your questions relating to the Battleship "Texas" are answered by the provisions of Article 6145-2, V.C.S., and Attorney General's Opinion No. V-1443 (1952) .

The Battleship Texas Commission is a State department and all funds and properties acquired by it belong to the State.

Article 6252-6, Vernon's Civil Statutes (House Bill No. 753, Acts 52nd Leg., 1951, ch. 356, p. 602) clearly provides that all State property must be listed in the inventory records of the Comptroller of Public

Hon. Robert S. Calvert, page 3 (MS-103)

Accounts.

Yours very truly,

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By

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